

9 FAM PART IV Appendix I, 500 GENERAL GUIDELINES REGARDING PRIVATE BILLS

(TL:VISA-274; 05-09-2001)

9 FAM 501 BACKGROUND

(TL:VISA-167; 05-23-1997)

Private immigration legislation is an effort to provide extraordinary relief after all administrative remedies under the INA have been exhausted. Based on the information submitted, the Congressional Committees must decide whether such circumstances merit passage of a private law which in effect would exempt the beneficiary from a provision of the law applicable to all other visa applicants or would confer a benefit to which the alien would not otherwise be entitled. It is the Department's experience that Members of Congress, when making an exception to the general immigration laws, examine each private bill very carefully to determine whether there is sufficient equity in the merits of the case. A fully documented background investigation would not only alert these Members to any relevant facts which might otherwise surface subsequent to the bill proceedings being completed but could also substantiate the necessity of passing the private bill.

9 FAM 502 GENERAL INFORMATION POST SHOULD INCLUDE IN A BILL REPORT

(TL:VISA-167; 05-23-1997)

A report from the post concerning a private bill case should provide the Senate and House Judiciary Committees all available information relating to the beneficiary of the private legislation. The report should not only verify the reasons for which a visa was denied (or could otherwise not be issued) in an individual case, but should also touch on matters which relate to the merits of the case and should contain any other pertinent information which may be of help to the Committees in weighing the equities of the private bill. However, while the Committees expect the report to provide detailed facts relevant to their final determination on the private legislation, posts should make no recommendation or observation on the merits of the private bill as such. If the files contain information of which the Committees should be made aware, but which does not belong in the official report, the consular officer should forward such information in a separate communication to the Department (CA/VO/L/R).

9 FAM 503 DEPARTMENT REQUEST FOR INFORMATION

(TL:VISA-167; 05-23-1997)

When a Departmental request for a private bill report is received, the consular officer shall promptly determine whether the visa files contain the necessary information to prepare a report as outlined in this chapter. In most cases it will be necessary to interview the beneficiary of the private bill to obtain the pertinent data. If the alien's address is not available, the post must so inform the Department for follow-up through the sponsor of the bill in obtaining the information. When preparing the report, the consular officer shall reexamine the validity of any previous visa refusal to determine whether subsequently enacted legislation would provide the same relief as passage of the private bill.

504 PREPARING THE REPORT

(TL:VISA-274; 05-09-2001)

The report should be transmitted to the Department either by fax, e-mail or cable. Posts should provide as much information about the beneficiary and any visa application the beneficiary has made. The report should include:

- (1) The private bill (S or HR) number;*
- (2) Biographical data regarding the beneficiary [See 9 FAM Part IV Appendix I, 509];*
- (3) Any known relationship to a U.S. citizen or Legal Permanent Resident;*
- (4) A complete report regarding any nonimmigrant or immigrant visa application made by the beneficiary [See 9 FAM Part IV Appendix I, 511];*
- (5) Results of local police and other agencies' name checks, whether negative or not [See 9 FAM Part IV Appendix I, 506];*
- (6) Any information known regarding any hardship of the beneficiary that might result in the denial of the visa;*
- (7) Any known grounds of ineligibility applicable to the beneficiary [See 9 FAM Part IV Appendix I, 507]; and*
- (8) Any relief which might be available to the beneficiary that would permit the issuance of a visa, either now or in the future.*

9 FAM 505 SUBMITTING THE MEMORANDUM OF INFORMATION

(TL:VISA-274; 05-09-2001)

Prompt submission of private bill reports is important, as the period during which the Congress is in session and in which it can complete action on private legislation is very limited. *A response to the Department's request must be made within 3 working days (unless the Department requests an immediate response). If a full report cannot be made within the 3-day time frame, posts must submit an interim report detailing the reason(s) for the delay and when a full report might be expected.*

9 FAM 506 CLEARANCE PROCEDURES

(TL:VISA-274; 05-09-2001)

a. Clearance procedures for private bill cases are identical to those for any immigrant visa case and must include checks with other posts. To avoid delay in submitting a report because of an incomplete investigation, the report should include a statement to the effect that the results of the investigation will be forwarded at a later date.

b. When the investigation is completed, the post should forward its results telegraphically for the Department to transmit to the appropriate Committee.

c. In cases in which the beneficiary of a private bill has been convicted of a criminal offense, the consular officer must submit *a copy* of the conviction, with translation if necessary, together with the charges brought against the alien, the applicable provisions of the law, and the judgment of the court.

d. Consular officers are reminded, however, that whether or not a record of the beneficiary exists in the post's file, they must conduct a check of the local police and clearance sources and submit the results, negative or not, to the Department.

9 FAM 507 GROUNDS OF INELIGIBILITY

(TL:VISA-274; 05-09-2001)

a. When a private bill provides relief from a ground of ineligibility, the report should state whether the pending private bill would remedy all known disqualifications for which the beneficiary might be refused a visa and, if not, the other grounds for which ineligibility exists. In this connection, the consular officer shall make every effort to ascertain whether other grounds of ineligibility may exist, to avoid embarrassment resulting from additional grounds coming to light after enactment of the bill which would make the beneficiary still ineligible to receive an immigrant visa.

b. When submitting a report on a bill waiving a drug or criminal conviction, the consular officer must furnish:

- (1) Complete transcripts of the conviction's related court proceedings;
- (2) Any other record relating to the offense(s) including state and local police records;
- (3) An affidavit from the beneficiary describing any criminal record in full, and
- (4) Any other information available at the post.

c. In the case of a bill *that* would provide relief from grounds of a drug conviction, the consular officer must also submit the court transcript indicating the exact amount of drug possession at the time of arrest. If such information is not available to the consular officer, because the beneficiary is not residing abroad or because the courts will not disclose such information, the report must include a statement to that effect and indicate whether the documents may be made available through direct request from the beneficiary. *Certified copies of all documents and their translation must be submitted to the Department.*

9 FAM 508 MEDICAL EXAMINATION

(TL:VISA-274; 05-09-2001)

a. A beneficiary of a private bill is required to undergo a medical examination. If the beneficiary refuses to comply, the consular officer must indicate this fact in the report. A *copy* of the medical report, and its translation if in a language other than English, must be submitted only if the report shows a medical ground of ineligibility. In such a case, the report by the examining physician must include:

- (1) Whether the condition affects the alien's employability;

- (2) Type(s) and results of treatments, if applicable;
- (3) How the alien gets along with others; and
- (4) Any other observations *that have* a bearing on the prognosis of the particular condition.

b. In cases involving mental grounds of ineligibility, the report must also include the date of the last known attack or other manifestation of mental affliction and a statement of the prognosis of the case.

c. In cases where the beneficiary's medical condition would prevent the alien from earning a living, the consular officer must provide information as to whether arrangements have been made by relatives to provide for the beneficiary's room, board, adequate medical insurance and any other necessities in connection with the medical impairment after arrival in the United States, and whether the relatives have provided for the alien in the past in the form of monetary contributions, etc.

d. If it appears that arrangements for the medical examination will delay submission of the report, the consular officer shall submit a preliminary report covering all other aspects of the case with a statement that the results of the examination will be transmitted at a later date. Submitting copies of negative medical findings is not necessary, but the report must include a statement to the effect that no diseases or defects were disclosed.

9 FAM 509 BIOGRAPHICAL DATA

(TL:VISA-167; 05-23-1997)

Biographical data concerning a beneficiary of a private bill should contain:

- (1) The beneficiary's name (including aliases, maiden, professional or religious name, or variant spellings);
- (2) Date and place of birth;
- (3) Place of residence;
- (4) Marital status and, if divorced, duration of marriage or previous marriage(s);
- (5) Children, if any, and their date(s) and place(s) of birth and present residence;
- (6) Background data (including, but not limited to, schooling, professional or vocational training or experience, military service, standing in the community);

- (7) Circumstances which led to existing disqualification;
- (8) Previous action taken on visa application, if any, including ground(s) for refusal;
- (9) General health conditions, including the date and results of medical examination;
- (10) Family ties in the United States and/or abroad; and
- (11) Claimed purpose of entry into the United States and length of intended stay if a nonimmigrant visa was previously issued to the beneficiary

9 FAM 510 ADOPTION CASES

(TL:VISA-167; 05-23-1997)

a. When a private bill would accord the beneficiary the status of a child, the report should include:

- (1) A specific statement regarding the adoption proceedings (instituted, pending or completed);
- (2) The applicable adoption law in the beneficiary's country; and
- (3) Whether the adoptive parent(s) and the child have met and the 2-year period of legal custody and residence with adoptive parent(s) has been fulfilled.

b. Three certified copies of the foreign adoption decree, and translation, if applicable, must be furnished. Evidence of support of the beneficiary, in the form of canceled checks, letters, and clothing, if any, should also be noted as it could favorably affect Congressional determination.

c. Furthermore, in cases where the results of the medical examination show an affliction or disability, the report shall indicate that all pertinent details relating to the affliction or disability have been provided to the adoptive parents and that they have elected to pursue the processing of the visa application to completion.

9 FAM 511 BENEFICIARY RESIDING IN THE UNITED STATES

(TL:VISA-167; 05-23-1997)

In cases where the beneficiary entered the United States in a nonimmigrant status, the report must provide the purpose of entry, length of stay, and any statement as to the necessity to return abroad after a visit to the United States as these appear on the visa application. The members of the Senate and House Judiciary Committees place great importance on this information in determining whether the beneficiary had intended all along to obtain immigrant status by circumventing standard immigrant visa procedures.

9 FAM 512 ENACTMENT OF PRIVATE LEGISLATION

(TL:VISA-274; 05-09-2001)

a. Upon receipt of notification of enactment of a private bill permitting issuance of a visa, the post shall immediately request the beneficiary to appear at the consular office for final interview and issuance of the visa. Consular officers must bear in mind that, unless the bill provides otherwise, the beneficiary must apply for and be issued a visa within two years from enactment of the bill or lose the relief provided by the private law. Consular officers must assure that the beneficiary is aware of this requirement at the time of the scheduling of the visa interview.

b. The telegraphic communication should form the basis for issuing the visa, provided a confirmation of a petition approval (unless such requirement has been waived by the private legislation) has also been received from INS. The consular officer shall telegraphically inform interested Members of Congress that the visa has been issued and clearly indicate the number of the private bill or law and the name of the beneficiary. An information copy *must be sent* to the Department *and slugged "Attention: Private Bill Staff - CA/VO/L/R.*